REMARKS

The present application includes claims 1-3, 7-8, 11-13 and 24-25. Claim 25 is new and incorporates subject matter removed from claim 1 and claim 7 was amended to depend thereon. Claims 1 and 11 were amended to include the limitations of claims 10 and 20 respectively and to remove unnecessary limitations. Claim 24 was converted into independent form by adding two clauses from claim 1. Claims 10 and 18-23 were cancelled.

Summary of rejections

Claims 1, 3, 11, 13, 21 and 23 stand rejected under 35 USC 103(a) as being unpatentable over Roth et al. (US patent publication 2005/0164692) in view of Yamadera (US patent publication 2002/0123368), Childs (US patent publication 2002/0107868) and Staas (US patent 5,125,091).

Claims 22 and 24 stand rejected under 35 USC 103(a) as being unpatentable over Roth et al. (US patent publication 2005/0164692) in view of Yamadera (US patent publication 2002/0123368), Childs (US patent publication 2002/0107868), Staas (US patent 5,125,091) and Levin (US patent publication 2002/0128908).

Claims 7 and 18 stand rejected under 35 USC 103(a) as being unpatentable over Roth et al. (US patent publication 2005/0164692) in view of Yamadera (US patent publication 2002/0123368), Childs (US patent publication 2002/0107868), Staas (US patent 5,125,091) and Bartels (US patent publication 2003/0208704).

Claims 10 and 20 stand rejected under 35 USC 103(a) as being unpatentable over Roth et al. (US patent publication 2005/0164692) in view of Yamadera (US patent publication 2002/0123368), Childs (US patent

publication 2002/0107868), Staas (US patent 5,125,091) and Macaluso (US patent publication 2005/0079863).

Claims 8 and 19 stand rejected under 35 USC 103(a) as being unpatentable over Roth et al. (US patent publication 2005/0164692) in view of Yamadera (US patent publication 2002/0123368), Childs (US patent publication 2002/0107868), Staas (US patent 5,125,091) and Roberts (US patent publication 2005/0073991).

Claims 2 and 12 stand rejected under 35 USC 103(a) as being unpatentable over Roth et al. (US patent publication 2005/0164692) in view of Yamadera (US patent publication 2002/0123368), Childs (US patent publication 2002/0107868), Staas (US patent 5,125,091) and Okkonen (US patent publication 2004/0166839).

Independent claims 1 and 11

In response to the rejections, claims 1 and 11 were amended to include the limitations of claims 10 and 20 respectively. In addition, unnecessary limitations were removed.

Regarding claims 10 and 20, the Examiner cited Macaluso, referring specifically to paragraphs [0039]-[0040] and the abstract, and stated that it would be obvious to modify the combination of Roth, Yamadera, Childs and Staas to include the configuration data of claims 10 and 20, since these are standard configuration parameters on mobile phones.

Applicant respectfully disagrees. While Roth relates to <u>customization</u> parameters, Malacuso relates in paragraphs [0039]-[0040] to specific configuration parameters which are not taught or suggested by Roth and there is no suggestion in the art to modify Roth to use such configuration parameters.

In relating to Roth, applicant refers to the provisional application 60/501,950 which serves as a priority document of US patent publication

2005/0164692, and not to the US publication, since its filing date is after that of the present application.

The provisional of Roth explains the reason for automatic backup as follows:

"The phone user will generally have spent a substantial amount of time to enter data and customize his applications. This effort might be lost if the phone is broken, stolen or replaced." (page 1, lines 12-13) and "We assume that the customer has personalized his mobile device" (page 1, line 28).

"When the owner or user wants to update the device or to customize a different device" (page 2, fourth paragraph)

"This can be done for any customization information beyond that which was mentioned above including, for example, a new language model, new names for the address or contact book, new pronunciations, a trained model that the user has adapted to his or her use, etc." (page 2, fifth paragraph).

As is known in the art, the configuration parameters of Malacuso and claim 10 are not usually entered by the phone user and they surely do not require the user to spend "a substantial amount of time to enter data and customize his applications". If the phone is lost, broken, stolen or replaced he will not need to reenter the configuration parameters because the new phone will be supplied to the user with the configuration parameters. Therefore there is no teaching in Roth to modify its teachings beyond customization information to include configuration parameters.

Malacuso relates to providing mobile phones which can be used with networks of a plurality of service providers. Settings that correspond to the selected service provider may be downloaded to the mobile device over the air (paragraph [0005]). The settings are not entered by the user, but rather are downloaded over the air and therefore there is no need to perform the

transmitting of configuration data to a server system for updating respective records of a database in the mobile communication network, as required by claim 1.

Childs relates to collection of reliability and maintenance data for monitoring the performance of various plants, such as power plants and maintenance plants (paragraph [0002]). Such monitoring is not suggested in Roth, Childs or Malacuso for mobile devices and there is no teaching in the art provided by the Examiner to use the teachings of Childs which relate to maintenance with the configuration parameters of mobile devices. Applicant respectfully submits that mobile devices are significantly different from manufacturing and power plants and are not known in the art as requiring the maintenance procedures described in Childs.

To summarize, amended claim 1 requires:

"determining whether a user has modified configuration data stored in a memory of a mobile device ...; and

transmitting the configuration data to a server system for updating respective records of a database in the mobile communication network, ...,

wherein the configuration data comprises at least one of an access point name (APN), a web gateway internet protocol (IP) address, a short messaging service center (SMSC), system identification code (SID) and communication environment dependent information."

Acts similar to the determining and transmitting of claim 1 have been described in Roth and Childs, for customization parameters and for reliability and maintenance data of manufacturing and power plants, but has not been described in the art of record for the specific configuration data of a mobile device required by claim 1.

The reasons provided by Roth and Childs for performing these similar acts do not apply to the specific configuration data listed in claim 1 and therefore there is no teaching in the art to modify Roth and/or Childs to relate to such configuration data.

Claim 11 is an apparatus claim with limitations similar to those of claim 1 and is therefore patentable for similar reasons.

Dependent claims

The dependent claims are patentable at least because they depend on patentable claims. Nonetheless, at least some of the dependent claims add further patentability over the art of record.

New claim 25, for example, which includes subject matter removed from claim 1, requires that the configuration data is compared to a range of values to determine whether the configuration data transmitted to the server system is valid. As discussed above, Childs relates to monitoring manufacturing and power plants and it would not be obvious to use procedures described in Childs for configuration data of mobile devices.

Independent claim 24

Claim 24 was converted into dependent form. It now requires:

"determining whether a user has modified configuration data stored in a memory of a mobile device ...

transmitting the configuration data to a server system for updating respective records of a database in the mobile communication network, ...

determining a user profile for research or marketing purposes based on the database records"

The Examiner stated that Levin teaches determining a user profile for research or marketing purposes and that it would be obvious to modify the

combination of Roth and other references to further include the step of determining a user profile for research or marketing purposes.

Applicant respectfully disagrees. MPEP 2143 states that:

> The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.

The MPEP then proceeds in listing various rationales which may support a conclusion of obviousness. Applicant respectfully submits that the Examiner has not provided any of these rationales and the reason provided by the Examiner to combining the references: "in order to precisely direct marketing campaigns to receptive audiences", does not explain why the person of the art would select the method of Roth for collecting information, which Roth suggests for backup purposes, and not use the very many methods of collecting information known in the art to be used for collecting marketing information.

Conclusion

Applicants respectfully submit that in view of the above amendments and arguments the claims are allowable. Allowance of the application is respectfully awaited. If, however, the Examiner does not see fit to allow the claims, applicants respectfully request following the provisions of MPEP 713.01 that the Examiner notify applicant's agent after he has considered the effect of the applicant's current response so that a telephone interview between the Examiner and applicant's agent can be arranged before a further action is issued. Applicant is of the opinion that such a telephone interview can expedite the case to final action.

Applicant's agent can be reached by calling patent attorney, Robert Lev, at (330) 759-1423 or sending an email to applicant's agent (yschatz@israel-patents.co.il).

Respectfully submitted,
Lev Intellectual Property Consulting

Robert G. Lev
Registration No: 30,280

Dated: February 16, 2010

4766 Michigan Blvd.
Youngstown, OH 44505
330-759-1423 telephone
330-759-4865 fax
patdoc@lev-ip.com

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS EXPRESS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS, PO BOX 1450, ALEXANDRIA, VA 22313-1450, ON 02-16-2010

LABEL NO. EB 24885 9947 US
NAME   Kim Woods
SIGNATURE Kim Woods